

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

United States Court of Appeals
Fifth Circuit

FILED
June 8, 2009

No. 08-50771
Summary Calendar

Charles R. Fulbruge III
Clerk

UNITED STATES OF AMERICA

Plaintiff-Appellee

v.

GERMAN GALLEGOS

Defendant-Appellant

Appeal from the United States District Court
for the Western District of Texas
USDC No. 3:07-cr-03268

Before DAVIS, GARZA, and PRADO, Circuit Judges.

PER CURIAM:*

German Gallegos appeals his below-guidelines sentence of 240 months of imprisonment following his conviction for importing 100 kilograms or more of marijuana and possession of 100 kilograms or more of marijuana with intent to distribute. 21 U.S.C. §§ 841(a)(1), 952(a). He argues that the downward variance by the district court, from a guidelines range of imprisonment of 262 to 327 months, insufficiently accounts for Gallegos's difficult childhood and continuing mental illness, and is unreasonable.

* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

In exercising its discretion, the district court appropriately considered the advisory sentencing guidelines and the sentencing factors set forth at 18 U.S.C. § 3553(a). *See United States v. Booker*, 543 U.S. 220 (2005); *United States v. Gall*, 128 S. Ct. 586, 596-97 (2007). The district court determined that imposition of the career offender enhancement resulted in a sentence greater than necessary to achieve the statutory purposes of punishment and that the 240-month term of imprisonment appropriately accounted for Gallegos's personal history and characteristics, as well as his criminal history. *See Gall*, 128 S.Ct. at 602. Gallegos has not shown that the district court abused its discretion or that his sentence is unreasonable. *See id.* Accordingly, the district court's judgment is AFFIRMED.